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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,553	03/18/2004	Nigel Victor Spurr	60130-2053	5676

26096 7590 02/28/2005

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/803,553

Applicant(s)

SPURR, NIGEL VICTOR

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>here to 3 pp</u> | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear how movement of the latch arrangement from the unlatched closed position to the unlatched open position affects movement of the clutch member as required in the last clause of claim 1. 'As best understood', the difference between the two positions occurs from the latch bolt moving from the closed to the open position after being freed by movement of the detent which is open in both positions. In that respect it appears that the detent and clutch member do not necessarily move between the two recited positions whereby any structural implications of the functionally-recited limitation is not clear. It is not clear what is meant by the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 9, 12, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 6,386,599 to Chevalier.

Chevalier '599 teaches Applicant's claim limitations in embodiment of Fig's 11-13 for example including :a "latch bolt" - 11, a "detent" - 20, a "drive mechanism having a driving abutment" - including 50, and a "clutch member" - including 30, an "actuator" - including 70. As best understood, the functional portion of the last clause of claim 1 is anticipated by inherent capability of the structure of the prior art noting that power unlatching first causes motion of 30 in direction 34 (first path) followed by kicking part 32 during the final unlatching movement of the bolt (second path). Return of latchbolt to latched position requires part 30 move downwards opposite to direction 34, where examiner notes that movement without part 32 being first engaged in notch at 51 defines a third path of movement different from either first or second paths.

As regards claim 2, movement of part 25 in direction 26 by manual actuation will open the prior art latch regardless of motor and gears' position.

As regards claim 6, as limitations are presently related, upper nad lower surfaces of notch at 51 can be read on "driving abutments".

As regards claim 7, variation of Fig 13 teaches "worm wheel" limitation.

As regards claim 9, as broadly phrased, limitation is anticipated by the prior art where one of ordinary skill in the art should recognize that housing is inherent to teaching of the reference and reads on "chassis" limitation.

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Otherwise, pin 23 defines a "pivot having a pivot axis" where claim does not require pivot axis be rigidly attached to the chassis, etc. (see claim 10).

As regards claim 12, part 25 reads on "ajar lever" which due to connection at 23 and spring bias applied to 20, inherently moves dependent upon open or closed position of 11 thereby anticipating functional recitation of "detect" which is set in broad terms related to intended use.

Other embodiments of Chevalier '599 also teach structure that may be read on the claims. For example, Chevalier '599 teaches Applicant's claim limitations in embodiment of Fig's 17 for example including :a "latch bolt" - 11, a "detent" - 20, a "drive mechanism having a driving abutment" - including 501, and a "clutch member" - including 400, an "actuator" - including 70. As regards limitations of claims 3-5, part 451 is disclosed to be capable of sliding and rotary motions whereby it is inherently capable of path geometries as recited. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). As regards claim 6, Chevalier '599 discloses a plurality of driving abutments including 803, 903.

Allowable Subject Matter

5. Claims 8, 10, 11, 13, 15, and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this

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Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5,020,838 to Fukumoto.

U.S. Pat. No. 6,536,814 to Kachouh.

U.S. Pat. No. 6,565,131 to Roos.

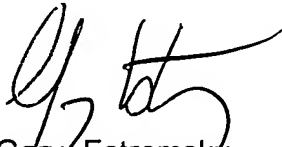
U.S. Pat. No. 6,712,407 to Duriez.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estremsky
Primary Examiner
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